

<b>Notice of Allowability</b>	Application No.	Applicant(s)	
	09/814,251	STADLER ET AL.	
	Examiner	Art Unit	
	Frances P. Oropeza	3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to the Amendment of 9/2/04.
2.  The allowed claim(s) is/are 1,4,5 and 7-11.
3.  The drawings filed on 02 September 2004 are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
 of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
    - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date 12/6/04.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date 12/6/04 .
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

**ALLOWANCE**

**EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview between Daniel G. Chapik and Frances P. Oropeza on 12/6/04.

The application has been amended as follows:

In the specification on page 4, line 31, after "methods." the following has been added -- In one embodiment, the threshold criteria increases as an inverse function of the length of a defined percentile interval over a sequence of a predetermined number of intervals separating preceding depolarizations. In one embodiment, the threshold criteria increase as an inverse function of the length of the 75th percentile interval over a sequence of a predetermined number of intervals separating preceding depolarizations.--.

In claim 1, line 24, "increases" has been deleted and --decreases-- has been inserted.

In claim 1, line 24, "an" has been deleted and --a-- has been inserted.

In claim 1, line 25, "inverse" has been deleted.

***Reasons for Allowance***

2. Claims 1, 4, 5 and 7-11 are allowed. The following is an examiner's statement of reasons for allowance: The subject matter of the independent claims could either not be found or was not

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suggested in the prior art. As discussed by the Applicant on page 11 of the response filed 9/13/03, the instant invention claims a threshold number that varies from bin to bin, the threshold number being adjusted based on a defined relationship. Gunderson (US 5330508) does not teach a threshold number that varies from bin to bin, the threshold number being adjusted based on a defined relationship.

As to claim 1 the subject matter not found was a “means for defining a discrimination criterion based on determining whether designated ones of the plurality of interval range bins have at least a predetermined threshold number of measured depolarization intervals within them, wherein the threshold number is set as value which deceases as a function of the length of the intervals between depolarizations”, in combination with the other elements of the claims.

As to claim 4 the subject matter not found was a “means for defining a discrimination criterion based on determining whether designated ones of the plurality of interval range bins have at least a predetermined threshold number of measured depolarization intervals within them, wherein the threshold number is set as value which increases as an inverse function of a defined percentile of the length of the intervals over a sequence of a predetermined number of intervals between depolarizations”, in combination with the other elements of the claims.

As to claim 5 the subject matter not found was a “means for defining a discrimination criterion based on determining whether designated ones of the plurality of interval range bins have at least a predetermined threshold number of measured depolarization intervals within them, wherein the threshold number is set as value which increases as an inverse function of the 75<sup>th</sup> percentile of the length of intervals over a sequence of a predetermined number of intervals between depolarizations”, in combination with the other elements of the claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Drawings***

3. The proposed drawings of figures 6, 7 and 8(a-c), filed on 9/2/04, have been accepted.

The application having been allowed, formal drawings of figures 8 (a-c) are required in response to this Office action to avoid abandonment of the application. The correction to the drawing will not be held in abeyance.

### ***Conclusion***

Any inquiry concerning this or earlier communications from the Examiner should be directed to Fran Oropeza whose telephone number is (571) 272-4953. The Examiner can normally be reached on Monday – Friday from 9 a.m. to 5:30 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Angela D. Sykes can be reached on (571) 272-4955. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communication and for After Final communications.

Frances P. Oropeza  
Patent Examiner  
Art Unit 3762

JPO  
12/6/04

GEORGE R. EVANISKO  
PRIMARY EXAMINER

12/6/04